



General Assembly

January Session, 2005

Raised Bill No. 995

LCO No. 3154

03154_____ET_

Referred to Committee on Energy and Technology

Introduced by:
(ET)

***AN ACT CONCERNING PERFORMANCE-BASED REGULATION OF
ELECTRIC DISTRIBUTION COMPANIES AND GAS COMPANIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-19kk of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) The General Assembly finds that if the earnings of electric, gas,
4 telephone and water public service companies, as defined in section
5 16-1, are adversely affected by such companies' conservation and load
6 management programs or other programs promoting the state's
7 economic development, energy and other policy, those companies will
8 have a disincentive to implement such programs. The General
9 Assembly further finds that in order to further the implementation of
10 such programs the earnings of electric, gas, telephone and water
11 companies should be consistent with the principles and guidelines set
12 forth in sections 16-19e, 16-19aa and 16-19kk to 16-19oo, inclusive, and
13 16a-49 notwithstanding participation in conservation and load
14 management programs and other programs authorized by the
15 Department of Public Utility Control, promoting the state's economic
16 development, energy and other policy.

17 (b) The department shall complete, on or before December 31, 1991,
18 an investigation into the relationship between a company's volume of
19 sales and its earnings. The department shall, on or before July 1, 1993,
20 implement rate-making and other procedures and practices in order to
21 encourage the implementation of conservation and load management
22 programs and other programs authorized by the department
23 promoting the state's economic development, energy and other policy.
24 Such procedures to implement a modification or elimination of any
25 direct relationship between the volume of sales and the earnings of
26 electric, gas, telephone and water companies may include the adoption
27 of a sales adjustment clause pursuant to subsection (i) of section 16-
28 19b, or other adjustment clause similar thereto. The department's
29 investigation shall include a review of its regulations and policies to
30 identify any existing disincentives to the development and
31 implementation of cost effective conservation and load management
32 programs and other programs promoting the state's economic
33 development, energy and other policy.

34 (c) Notwithstanding the provisions of subdivision (4) of subsection
35 (a) of section 16-19e, in a proceeding under subsection (a) of section 16-
36 19 the department shall consider for an electric, gas, telephone or
37 water public service company, as defined in section 16-1, in
38 establishing the company's authorized return within the range of
39 reasonable rates of return: Quality, reliability and cost of service
40 provided by the company, the reduced or shifted demand for
41 electricity, gas or water resulting from the company's conservation and
42 load management programs approved by the department, the
43 company's successful implementation of programs supporting
44 economic development of the state and the company's success in
45 decreasing or constraining dependence on the use of petroleum or any
46 other criteria consistent with the state energy or other policy. [The
47 department may also establish other performance-based incentives
48 both related and unrelated to the company's rate of return designed to
49 implement the purposes of said sections 16-19e, 16-19aa, 16-19kk to 16-
50 19oo, inclusive, and 16a-49.]

51 (d) In any proceeding before the department in which a company
52 seeks beneficial rate treatment pursuant to this section, the Office of
53 Consumer Counsel may retain independent experts to provide
54 analysis, evaluation and testimony to address the issue of the
55 appropriateness of such beneficial treatment under consideration in
56 the proceeding, and all reasonable and proper expenses, to provide
57 such analysis, evaluation and testimony, to a maximum of fifty
58 thousand dollars per proceeding, shall be paid by the company and
59 shall be proper rate-making expenses.

60 (e) The Department of Public Utility Control may adopt regulations,
61 in accordance with the provisions of chapter 54, to carry out the
62 purposes of this section.

63 Sec. 2. Section 16-19a of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2005*):

65 (a) [(1)] The Department of Public Utility Control shall, at intervals
66 of not more than four years from the last previous general rate hearing
67 of each gas, electric and electric distribution company having more
68 than seventy-five thousand customers, conduct a complete review and
69 investigation of the financial and operating records of each such
70 company and hold a public hearing to determine whether the rates of
71 each such company are unreasonably discriminatory or more or less
72 than just, reasonable and adequate, or that the service furnished by
73 such company is inadequate to or in excess of public necessity and
74 convenience or that the rates do not conform to the principles and
75 guidelines set forth in section 16-19e, except that such review and
76 investigation shall not be required for any such company that is subject
77 to a performance-based form of regulation pursuant to section 4 of this
78 act. In making such determination, the department shall consider the
79 gross and net earnings of such company since its last previous general
80 rate hearing, its retained earnings, its actual and proposed capital
81 expenditures, its advertising expenses, the dividends paid to its
82 stockholders, the rate of return paid on its preferred stock, bonds,

83 debentures and other obligations, its credit rating, and such other
84 financial and operating information as the department may deem
85 pertinent.

86 [(2)] (b) The department may conduct a general rate hearing in
87 accordance with subsection (a) of section 16-19, in lieu of the periodic
88 review and investigation proceedings required under [subdivision (1)
89 of this] subsection (a) of this section.

90 [(b) In the proceeding required under subdivision (1) of subsection
91 (a) of this section, the department may approve performance-based
92 incentives to encourage a gas or electric company to operate efficiently
93 and provide high quality service at fair and reasonable prices.
94 Notwithstanding subsection (a) of this section, if the department
95 approves such performance-based incentives for a particular company,
96 the department shall include in such approval a framework for
97 periodic monitoring and review of the company's performance in
98 regard to criteria specified by the department, which shall include, but
99 not be limited to, the company's return on equity, reliability and
100 quality of service. The department's periodic monitoring and review
101 shall be used in lieu of the periodic review and investigation
102 proceedings required under subdivision (1) of subsection (a) of this
103 section. If the department determines in the periodic monitoring and
104 review that a more extensive review of company performance is
105 necessary, the department may institute a further proceeding in
106 accordance with the purposes of this chapter, including a complete
107 review and investigation described in subdivision (1) of subsection (a)
108 of this section.]

109 Sec. 3. Section 16-19j of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective October 1, 2005*):

111 (a) The Public Utilities Control Authority may require a portion of
112 the staff of the department to be made a party to any proceeding.

113 (b) Notwithstanding subsection (a) of this section, the authority

114 shall require a portion of the staff to be made a party to proceedings
 115 relating to (1) a rate amendment proposed pursuant to section 16-19 by
 116 a public service company having more than seventy-five thousand
 117 customers, (2) the approval of performance-based [incentives] form of
 118 regulation pursuant to [subsection (b) of section 16-19a] section 4 of
 119 this act, or (3) the approval of any alternative form of regulation
 120 pursuant to section 16-247k, provided the authority shall not require a
 121 portion of the staff to be made a party to any proceeding described in
 122 this subsection if the authority issues a notice of its intent not to do so
 123 in writing. The notice shall include the reasons for not requiring a
 124 portion of the staff to be made a party. Upon petition of any party so
 125 noticed, the authority shall require a portion of the staff to be made a
 126 party.

127 (c) The provisions of section 4-181 shall apply to any proceeding in
 128 which a portion of department staff is made a party.

129 (d) The department staff assigned to participate as a party to any
 130 rate proceedings described in subdivision (1) of subsection (b) of this
 131 section shall review the proposed rate amendment filed by the
 132 company and shall file with the commissioners of the department
 133 proposed modifications of the rate amendment. Such modifications
 134 shall carry out the purposes of subsection (a) of section 16-19e and
 135 section 16a-35k. Such staff shall appear and participate in the
 136 proceedings in support of its proposed modifications and may employ
 137 outside consultants knowledgeable in the utility regulation field.

138 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) For purposes of this
 139 section, (1) "performance-based form of regulation" means any form of
 140 regulation other than the traditional cost of service regulation
 141 including, but not limited to, any rate plan that establishes rates in
 142 accordance with subsection (a) of section 16-19e of the general statutes
 143 and includes a mechanism under which the earnings of the public
 144 service company above the return on equity previously authorized by
 145 the Department of Public Utility Control are shared between the

146 company and its ratepayers in any manner, and (2) "direct financial
147 benefits" means benefits that include, but are not limited to, bill
148 reductions and the accelerated payment of any deferred costs
149 approved in a previous rate case.

150 (b) The department may implement a performance-based form of
151 regulation for an electric distribution company or a gas company in
152 accordance with this section either (1) on its own initiative during a
153 general rate hearing for an electric distribution company or a gas
154 company conducted pursuant to section 16-19 of the general statutes or
155 subsection (b) of section 16-19a of the general statutes, as amended by
156 this act, provided no rate determination or rate plan for such
157 companies implemented by the department before the effective date of
158 this section shall be subject to this section, or (2) on application by an
159 electric distribution company or a gas company.

160 (c) The department shall not implement a performance-based form
161 of regulation for any electric distribution or gas company unless (1) the
162 earnings sharing mechanism of the performance-based form of
163 regulation, if any, provides that ratepayers receive direct financial
164 benefits from not less than one-half of all company earnings above the
165 return on equity allowed by the department, (2) such regulation
166 includes objective quality and reliability of service requirements
167 consistent with industry standards, as well as periodic review and
168 monitoring of such requirements by the department and such financial
169 or other measures as the department determines is appropriate if the
170 company exceeds or fails to meet such requirements, (3) such
171 regulation includes a maximum return on equity not greater than fifty
172 per cent above the authorized return on equity, and (4) such regulation
173 has a maximum term of not greater than five years.

174 (d) If, during the term of its performance-based form of regulation, a
175 company has, for six consecutive months, earned a return on equity
176 that exceeds the maximum return determined under subdivision (3) of
177 subsection (c) of this section, the department shall reexamine such

178 regulation to determine whether it should remain in place for the
179 duration of its term. The department may, as it considers necessary,
180 adjust or terminate such regulation in accordance with the principles
181 of subsection (a) of section 16-19e of the general statutes.

182 (e) During the term of a performance-based rate form of regulation
183 pursuant to this section, subsection (d) of section 16-19 of the general
184 statutes or subsection (g) of section 16-19 of the general statutes shall
185 not apply to the subject company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	16-19kk
Sec. 2	<i>October 1, 2005</i>	16-19a
Sec. 3	<i>October 1, 2005</i>	16-19j
Sec. 4	<i>October 1, 2005</i>	New section

Statement of Purpose:

To provide guidelines to the Department of Public Utility Control for the implementation of a performance-based form of regulation for an electric distribution company or gas company.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]